

ASSEMBLY BILL

No. 608

Introduced by Assembly Member Calderon

February 17, 2005

An act to amend Section 789 of the Insurance Code, relating to the Insurance Commissioner.

LEGISLATIVE COUNSEL'S DIGEST

AB 608, as introduced, Calderon. Insurance Commissioner.

Existing law provides for the authority of the commissioner to administer penalties and enforce the provisions of the Insurance Code.

This bill would make technical, nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 789 of the Insurance Code is amended
2 to read:
3 789. (a) The commissioner shall have the administrative
4 authority to assess penalties against insurers, brokers, agents, and
5 other entities engaged in the transaction of insurance or any other
6 person or entity for ~~violations of~~ *violating* this article.
7 (b) Upon a showing of a violation of this article in any civil
8 action, a court may also assess the penalties prescribed in this
9 chapter.
10 (c) ~~Whenever~~ *Anytime* the commissioner has reasonable cause
11 to believe or determines after a public hearing that any insurer,
12 agent, broker, or other person or entity engaged in the transaction

1 of insurance, has violated this article the commissioner shall
2 make and serve upon the insurer, broker, agent, or other person
3 or entity a notice of hearing. The notice shall state the
4 commissioner's intent to assess the administrative penalties, the
5 time and place of the hearing, and the conduct, condition or
6 ground upon which the commissioner is holding the hearing, and
7 assessing the penalties. The hearing shall occur within 30 days
8 after the notice is served. Within 30 days after the hearing the
9 commissioner shall issue an order specifying the amount of the
10 penalties to be paid. The penalties resulting from the hearing
11 shall be paid to the Insurance Fund.

12 (d) The powers vested in the commissioner by this section
13 shall be in addition to any and all powers and remedies vested in
14 the commissioner by law.

15 (e) Actions for injunctive relief, penalties specified in Section
16 789.3, damages, restitution, and all other remedies in law, may be
17 brought in superior court by the Attorney General, district
18 attorney, or city attorney on behalf of the people of California.
19 The court shall award reasonable attorney's fees and court costs
20 to the prevailing plaintiff who establishes a violation of this
21 article.